PART IV

SECTION—1 B.

CENTRAL ACTS AND ORDINANCES

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 53 LCA 75

Bangalore, dated the 27th August 1975.

Ordered that the Aircraft (Amendment) Act, 1972 published in Part II, Section 1 of the Gazette of India Extraordinay dated 20th April 1972 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,

Under Secretary to Government,
Department of Law and Parly. Affairs

21

Assented to on 20-4-1972 Act No. 12 of 1972

THE AIRCRAFT (AMENDMENT) ACT, 1972.

AN

ACT

further to amend the Aircraft Act, 1934.

BE it enacted by Parliament in the Twenty-third year of the Republic of India as follows :—

1. **Short title**.—This Act may be called the Aircraft (Amendment) Act, 1972.

2. **Amendment of section** 2.—In section 2 of the Aircraft Act, 1934 (22 of 1934), (hereinafter referred to as the principal Act),—

(a) in clause (1), after the words "reactions of the air", the words "other than reactions of the air against the earth's surface" shall be inserted ;

(b) after clause (2) the following clause shall be inserted, namely :—

'(2A) "aerodrome reference point", in relation to any aerodrome, means a designated point established in the horizontal plane at or near the geometric centre of that part of the aerodrome reserved for the departure or landing of aircraft;'.

3. **Substitution of new section for section 4.**—For section 4 of the principal Act, the following section shall be substituted, namely :—

"**4 Power of Central Government to make rules to implement the Convention of 1944.**—The Central Government may, by notification in the Official Gazette, make such rules as appear to it to be necessary for carrying out the Convention relating to International Civil Aviation signed at Chicago on the 7th day of December, 1944 (including any Annex thereto relating to international standards and recommended practices) as amended from time to time".

4. **Amendment of section 5.**—In section 5 of the principal Act,—

(i) in sub-section (1), the words " and for securing the safety of aircraft operations" shall be inserted at the end ;

(ii) in sub-section (2), in clause (q), the word "and" occuring at the end shall be omitted and after that clause as so amended, the following clause shall be inserted, namely :—

"(qq) the prohibition of slaughtering and flaying of animals and of depositing rubbish, filth and other

polluted and obnoxious matter within a radius of ten kilometres from the aerodrome reference point; and".

5. Insertion of new section 5A.—After section 5 of the principal Act, the following section shall be inserted namely :—

"**5A Power to issue directions**:—(1) The Director General of Civil Aviation or any other officer specially empowered in this behalf by the Central Government may, from time to time, by order issue directions, consistent with the provisions of this Act and the rules made thereunder, with respect to any of the matters specified in clauses (b), (c), (e), (f), (g), (h) and (m) of sub-section (2) of section 5, to any person or persons engaged in aircraft operations or using any aerodrome, in any case where the Director General of Civil Aviation or such other officer is satisfied that in the interests of the security of India or for securing the safety of aircraft operations it is necessary so to do.

(2) Every direction issued under sub-section (1) shall be complied with by the person or persons to whom such direction is issued".

6. Amendment of section 6.—In section 6 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) Any order made under sub-section (1), shall have effect notwithstanding anything inconsistent therewith contained in any rule made under this Act".

7. Amendment of section 8.—In section 8 of the principal Act, in clause (b) of sub-section (1), the words "or to implement any order made by any court" shall be inserted at the end.

8. Insertion of new section 8C.—After section 8B of the principal Act, the following section shall be inserted namely:—

"**8C Power of Central Government to make rules for securing safe custody and re-delivery of unclaimed property.**—The Central Government may, by notification in the Official Gazette, make rules which may provide for securing the safe custody and re-delivery of any property which, while not in proper custody, is found on any aerodrome or in any aircraft on any aerodrome and any such rules may, in particular, provide for—

(a) the payment of charges in respect of any such property before it is re-delivered to the person entitled thereto; and

(b) the disposal of any such property in cases where the same is not re-delivered to the person entitled thereto before the expiration of such period as may be specified therein.

9. Amendment of section 9.—In section 9 of the principal Act, in sub-section (1) for the words and figures "The provisions of Part VII of the Indian Merchant Shipping Act 1923 (21 of 1923)" the words and figures "The provisions of Part XIII of the Merchant Shipping Act, 1958 (44 of 1958)" shall be substituted.

10. Insertion of new sections 9A, 9B, 9C, and 9D.—After section 9 of the principal Act. the following sections shall be inserted, namely :—

"**9A. Power of Central Government to prohibit or regulate construction of buildings, planting of trees, etc.**—(1) If the Central Government is of opinion that it is necessary or expedient so to do for the safety of aircraft operations, it may, by notification in the Official Gazette,—

(i) direct that no building or structure shall be constructed or erected, or no tree shall be planted, on

any land within such radius, not exceeding twenty kilometres from the aerodrome reference point, as may be specified in the notification and where there is any building, structure or tree on such land, also direct the owner or the person having control of such building, structure or tree to demolish such building or structure or, as the case may be, to cut such tree within such period as may be specified in the notification ;

(ii) direct that no building or structure higher than such height as may be specified in the notification shall be constructed or erected, or no tree, which is likely to grow or ordinarily grows higher than such height as may be specified in the notification, shall be planted, on any land within such radius, not exceeding twenty kilometres from the aerodrome reference point, as may be specified in the notification and where the height of any building or structure or tree on such land is higher than the specified height, also direct the owner or the person having control of such building, structure or tree to reduce the height thereof so as not to exceed the specified height, within such period as may be specified in the notification.

(2) In specifying the radius under clause (i) or clause (ii) of sub-section (1) and in specifying the height of any building structure or tree under the said clause (ii), the Central Government shall have regard to—

(a) the nature of the aircraft operated or intended to be operated in the aerodrome ; and

(b) the international standards and recommended practices governing the operations of aircraft.

(3) Where any notification has been issued under sub-section (1) directing the owner or the person having control of any building, structure or tree to demolish such building or structure or to cut such tree or to reduce the height of any building structure or tree, a copy of the notification containing such direction shall be served on the owner or the person having the control of the building structure or tree as the case may be,—

(i) by delivering or tendering it to such owner or person ; or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such owner or person or any adult male member of the family of such owner or person or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which such owner or person is known to have last resided or carried on business or personally worked for gain ; or failing service by these means ;

(iii) by post.

(4) Every person shall be bound to comply with any direction contained in any notification issued under sub-section (1)

9B. Payment of compensation —(1) If in consequence of any direction contained in any notification issued under sub-section (1) of section 9A, any person sustains any loss or damage, such person shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement ;

(b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is or has been qualified for appointment as a Judge of a High Court ;

(c) the Central Gavernment may, in any particular case, nominate a person having expert knowledge as to the nature of the loss or damage suffered by the person to be compensated and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose ;

(d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what, in their respective opinion, is a fair amount of compensation ;

(e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specify the person or persons to whom such compensation shall be paid ; and in making the award he shall have regard to the circumstances of each case and.—

(i) the damage sustained by the person to be compensated in his earnings ;

(ii) if in consequence of any direction contained in any notification issued under sub section (1) of section 9A the market value of the land immediately after the issue of such notification is diminished, the diminution in such market value ;

(iii) where any building or structure has been demolished or any tree has been cut or the height of any building, structure or tree has been reduced in pursuance of any direction, the damage sustained by the person to be compensated in consequsnce of such demolition, cutting or reduction and the expenses incurred by such person for such demolition, cutting or reduction ;

(iv) if the person to be compensated is compelled to change his residence or place of business the reasonable expenses, if any, that may have to be incurred by him incidental to such charge ;

(f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons ;

(g) nothing in the Arbitratin Act, 1940 (10 of 1940) shall apply to arbitration under this section.

(2) Every award made by the arbitrator under clause (e) of sub-section (1) shall also state the amount of costs incurred in the proceedings before it and by what persons and in what proportions they are to be paid.

9C. Appeals from awards in respect of compensation.—Any person aggrieved by an award of the arbitrator made under section 9B may, within thirty days from the date of such award, prefer an appeal to the High Court whithin whose jurisdiction the aerodrome is situate :

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

9D. Arbitrator to have certain powers of civil courts.—The arbitrator appointed under section 9B, while holding arbitration proceedings under this Act, shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath ;

(b) requiring the discovery and production of any document ;

(c) reception of evidence on affidavits ;

(d) requisitioning any public record from any court or office :

(e) issuing commissions for examination of witnesses".

11. Insertion of new sections 11A and 11B.—After section 11 of the principal Act, the following sections shall be inserted, namely :—

"**11A. Penalty for failure to comply with directions issued under section 5A.**—If any person wilfully fails to comply with any direction issued under section 5A, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

11B Penalty for failure to comply with directions issued under section 9A.— 1) If any person wilfully fails to comply with any direction contained in any notification issued under section 9A, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

(2) Without prejudice to the provisions of sub-section (1), if any person fails to demolish any building or structure or cut any tree or fails to reduce the height of any building, structure or tree in pursuance of any direction contained in any notification issued under sub-section (1) of Section 9A within the period specified in the notification, then, subject to such rules as the Central Government may make in this behalf, it shall be competent for any officer authorised by the Central Government in this behalf to demolish such building or structure or cut such tree or reduce the height of such building, structure or tree.''.

12. Amendment of section 19.—In section 19 of the principal Act, in sub-section (1), after the words ''or in any order or rule made thereunder'' the words, figures and letters "other than a rule made under section 8A or under section 8B'' shall be inserted.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.